

**BEFORE THE LAND USE HEARINGS EXAMINER  
OF CLARK COUNTY, WASHINGTON**

Regarding an application by Craig & Sheila Swan for	)	<b><u>FINAL ORDER</u></b>
approval of a preliminary plat to divide 1.77-acres into	)	
38 townhouse lots in the R-43 zone at 8413 NE Grove	)	<b>PLD 2004-00055<sup>1</sup></b>
Road in unincorporated Clark County, Washington	)	<b>(Swan Townhomes)</b>

**A. SUMMARY**

1. The applicants request approval to divide the 1.77-acre site into 38 townhouse lots. A new single-family attached dwelling will be built on each of the proposed lots. All proposed lots will comply with the minimum dimensional standards for townhouses in the R-43 zone. Clark Public Utilities and Hazel Dell Sewer District will provide domestic water and sanitary sewer service respectively. The applicants will dedicate right of way for and will improve the site's NE Hylen Way and Grove Street frontages to County road standards. The applicants propose to improve NE Grove Road along the site's western boundary as a private street extending north from NE Grove Street, terminating near the north boundary of the site. The applicants will provide an emergency vehicle access between the northern terminus of Grove Road and Hylen Way. The applicants propose to extend three private streets to the east of Grove Road to provide access to the interior lots. All of the proposed lots will have driveway access to one of the proposed public or private streets. The applicants propose to collect storm water from impervious areas of the site and direct it to an underground treatment and detention facility within the Grove Road easement. The applicants will release treated stormwater to the existing public storm sewer system at less than predevelopment rates.

2. The County issued a Determination of Nonsignificance ("DNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. County staff recommended that the examiner approve the application subject to conditions as amended at the hearing. See the Development & Environmental Review Staff Report & Recommendation to the Hearing Examiner dated September 8, 2004 (the "Staff Report"). The applicants accepted those findings and conditions, as amended, without objections or corrections. A representative of the neighborhood association testified in support of the application. No one else testified orally or in writing.

3. Based on the findings provided or incorporated herein, the examiner approves the subdivision, subject to the conditions at the conclusion of this final order.

**B. HEARING AND RECORD**

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<sup>1</sup> This decision also addresses SEP2004-00092, EVR2004-00028 and the related road modification.

1. The examiner received testimony at a public hearing about this application on September 23, 2004. That testimony and evidence, including a videotape of the public hearing and the casefile maintained by the Department of Community Development ("DCD"), are included herein as exhibits. A list of the exhibits is attached to and incorporated into this final order. The exhibits are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Alan Boguslawski summarized the Staff Report and showed photographs of the site. He noted that the state Department of Ecology (the "DOE") identified ten known contaminated sites within a half-mile radius of the site. Similar contaminants may be present on the site. Exhibit 21. Therefore he recommended the examiner add a condition of approval requiring the applicants notify contractors of the potential contamination and to require notice to the DOE if contamination is discovered on the site. Exhibit 23.

3. Eric Galemo appeared on behalf of the applicants and accepted the findings and conditions in the Staff Report as amended without objections.

4. Bud Van Cleeve testified on behalf of the NE Hazel Dell Neighborhood Association. He testified that the applicants' representatives met with the surrounding neighbors and addressed their concerns to the extent feasible. He recommended the examiner approve the application subject to the conditions in the Staff Report.

5. The examiner closed the record at the end of the hearing and announced his intention to approve the application subject to the conditions recommended by County staff, as amended at the hearing.

### **C. DISCUSSION**

1. County staff recommended approval of the preliminary subdivision plat and related applications, based on the affirmative findings and subject to conditions of approval in the Staff Report. The applicants accepted those findings and conditions without exceptions.

2. The examiner concludes the affirmative findings in the Staff Report, as amended, show the proposed preliminary plat and related applications should be approved, because they do or can comply with the applicable standards of the County Code and Revised Code of Washington, provided the applicants comply with recommended conditions of approval as amended at the hearing. The examiner adopts the affirmative findings in the Staff Report, as amended, as his own.

### **D. CONCLUSION**

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PLD 2004-00055 (Swan Townhomes) and related applications in general conformance with the applicants' proposal (Exhibit 5) and the plans and reports

associated with this proposal (Exhibits 6, 11 through 16 and 20. This approval is granted subject to the requirements that the applicants, owner or subsequent developer (the "applicant") shall comply with all applicable code provisions, laws and standards and the following conditions.

<b>A. Conditions that must be met <u>prior to Final Plat Approval</u></b>
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- A-1** The applicant shall amend the preliminary site plan and plat as necessary to provide a minimum 18-foot setback from the front lot line for the garage doors of the units on Lots 1-6, in compliance with CCC Table 40.260.230-1.
- A-2** The applicant shall amend the landscape plan to provide 16 trees within the required 5-foot landscape buffer along the east property boundary, in accordance with CCC 40.320.010.
- A-3** The applicant shall record with the final plat a covenant running with the land that requires the owners of lots containing the required landscape buffers to maintain the landscaping in accordance with the approved final landscape plan.
- A-4** The applicant shall reimburse the county for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,500. The reimbursement shall be made within 60 days of issuance of the Staff Report with evidence of payment presented to staff at Clark County Public Works.
- A-5** The applicant shall dedicate, as necessary, a minimum half-width right-of-way of 23 feet along the frontage of NE Grove Street and NE Hylen Way. Half-width roadway improvements of 14 feet with curb gutter and a 5-foot wide sidewalk shall be constructed.
- A-6** The applicant shall provide an easement for the north/south private road in accordance with CCC 40.350; also, roadway improvements with a 20-foot curb to curb width, and a 5-foot wide sidewalk within a public access easement for pedestrian circulation.
- A-7** The applicant shall provide an easement and roadway improvements for access on the three (3) east/west private roads; This will include a 20-foot wide curb-to-curb roadway and a 5-foot wide sidewalk.
- A-8** The stormwater plan shall include measures to prevent runoff onto adjacent property to the west of the proposed development. The release rates shall not exceed the allowable rates in the direction of pre-developed drainage paths.
- A-9** An offsite analysis extending a minimum of one-fourth mile downstream from the development site shall be included in the required technical information report. If

necessary, the applicant shall submit and obtain approval of a mitigation plan for preventing any adverse impacts that may be caused by this development.

- A-10** The applicant shall provide evidence that fire flow in the amount of 2,750 gallons per minute supplied for two hours duration is provided for this development. Information from the water purveyor indicates that the required fire flow is available at the site, but will require a looped main. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval.
- A-11** The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. Hydrant locations shall be approved by the Vancouver Fire Department. Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. The applicant shall provide and maintain a six-foot clear space completely around every fire hydrant.
- A-12** Plans for the north gate to Hylen Way shall be submitted for approval by the Fire Marshal prior to installation. A Knox lock or Knox Box will be required for the gate. The key or box can be obtained from the Fire Marshal's office.
- A-13** The applicant shall provide documentation from the Clark Public Utilities and Hazel Dell Sewer District that water and sewer connections to the new lots have been installed and approved.

<b><u>B. Conditions that must be met prior to issuance of Building Permits</u></b>
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- B-1** Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

The applicant shall maintain all existing signs within the public right-of-way within the limits of the development's construction until the public roads have been accepted by the county. The developer shall install and maintain temporary signs where the development's signing and striping plan shows new or modified warning or regulatory signs. New or modified temporary signing shall be installed when any connection is made to the public road network. The developer shall remove the temporary signs immediately after the county installs the permanent signing and striping.

- B-2** Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional

specific requirements may be made at the time of building construction as a result of the permit review and approval process.

**B-3** Impact fees shall be paid prior to issuance of a building permit for each lot, as follows:

- Traffic Impact Fees: \$ 811.90 (Hazel Dell TIF sub-area)
- Park Impact Fees: \$1,472.00 (Park District #9)  
(\$1,151 – Acquisition/\$321 – Development)
- School Impact Fees: \$1,450.00 (Vancouver School Dist)

If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees shall be recalculated according to the then-current ordinance rate.

**B-4** Prior to any excavation and construction on the site, the applicant shall notify the contractors to be alert for contamination on the site. If contamination is discovered, it shall be reported to the Washington Department of Ecology. Sampling of the potentially contaminated media shall be conducted. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300

### **C. Notes Required on Final Plat**

The following notes shall be placed on the final plat:

#### **Zoning:**

**C-1** "Dwellings and other structures on the lots in this plat shall be constructed in accordance with the density, setbacks, height regulations, lot coverage, parking standards, and other applicable standards for the R-43 zone in CCC 40.260.230."

#### **Impact Fees:**

**C-2** "In accordance with CCC 40.610 & 40.620, the School, Park, and Traffic Impact Fees for each dwelling in this subdivision are respectively: \$1,450.00 (Vancouver School Dist), \$1,472.00 (Park District #9) (\$1,151 – Acquisition; \$321 – Development), and \$811.90 (Hazel Dell TIF sub-area). The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

#### **Archaeological:**

- C-3** "If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

**Critical Aquifer Recharge Areas:**

- C-4** "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

**Erosion Control:**

- C-5** "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."

**Utilities:**

- C-6** "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."

**Private Roads:**

- C-7** "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this plat. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or adjoining lot owners to include hard surface paving and is accepted by the County for public ownership and maintenance."

**Privately Owned Stormwater Facilities:**

- C-8** "The homeowner's association is responsible for long-term maintenance of the privately owned stormwater facilities."

## **D. Standard Conditions**

This development proposal shall conform to all applicable sections of the Clark County Code. The following conditions shall also apply:

### **Land Division:**

- D-1** Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

### **Final Construction Plan Review:**

- D-2** Prior to construction, the applicant shall submit and obtain county approval of a final stormwater plan designed in conformance to CCC 40.380.
- D-3** Prior to construction, the applicant shall submit and obtain county approval of a final transportation design in conformance to CCC 40.350.030.

### **Pre-Construction Conference:**

- D-4** Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the county.

### **Erosion Control:**

- D-5** Prior to construction, the applicant shall submit and obtain county approval of a final erosion control plan designed in accordance with CCC 40.380.
- D-6** A copy of the approved erosion control plan shall be submitted to the Chief Building Official prior to final plat recording.
- D-7** Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- D-8** Erosion control facilities shall **not** be removed without county approval.

### **Excavation and Grading:**

- D-9** Excavation/grading shall be performed in compliance with Appendix Chapter 33 of the Uniform Building Code (UBC).

- D-10** Site excavation/grading shall be accomplished, and drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.

**Water Wells and Septic Systems:**

- D-11** Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable “Health Department Well/Septic Abandonment Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy).

DATED this \_\_\_\_\_ day of September, 2004.

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Joe Turner, AICP  
Clark County Land Use Hearing Examiner